

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

WAYNE WELLS,

Plaintiff,

vs.

KILOLO KIJAKAZI, Acting
Commissioner of the Social Security
Administration,

Defendant.

CV 20-114-GF-JTJ

ORDER

Plaintiff Wayne Wells (Wells) has moved for an award of attorney's fees in the amount of \$6,393.09 under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of \$40.25. The Acting Commissioner of the Social Security Administration (Commissioner) does not oppose the motion. (*See* Doc. 26-8).

The Court has reviewed Wells's application. The requested fee award represents 2.1 attorney hours at a fee rate of \$207.78 per hour, 24.9 attorney hours at \$217.54 per hour, and 7.2 paralegal hours at \$75.00 per hour. (Doc. 26 at 3). Wells seeks \$40.25 for the expenses he incurred serving the Defendant with process by certified mail. *Id.* The Court finds that the application is proper and that the amount requested is reasonable.

Fee awards under EAJA are subject to an offset to satisfy any debt that the plaintiff owes the government. *Astrue v. Ratliff*, 560 U.S. 586, 593-94 (2010). If the plaintiff has no debt that qualifies as an offset under the Treasury Offset Program, the plaintiff may assign his or her right to receive the fee award to his or her attorney. *Id.* at 597-98; *Webster v. Berryhill*, 2018 WL 4290395, *2 (D. Mont. Sept. 7, 2018).

Accordingly, IT IS HEREBY ORDERED:

1. Wells's Motion for an Award of EAJA Fees and costs (Doc. 21) is GRANTED. Wells is entitled to an award of attorney's fees under 28 U.S.C. § 2412 in the amount of \$6,393.09, less any offset allowed under the Treasury Offset Program, and costs in the amount of \$40.25.
2. If, after receiving this Order, the Commissioner determines that Wells owes a debt that qualifies as an offset under the Treasury Offset Program, the Commissioner should issue a check made payable to Wells in the amount of \$6,433.34 less the amount of the offset. Wells's award check should be mailed to Wells's attorney, Eric Rasmusson, at the following address:

Rasmusson Law Offices, PLLC
P.O. Box 7825
Missoula, MT 59807

3. If the Commissioner determines that Wells has no outstanding debt that qualifies as an offset under the Treasury Offset Program, and that Wells has assigned his right to the EAJA fee award to his attorney, the Commissioner should make the check payable to Eric Rasmusson.

DATED this 30th day of March, 2022.



John Johnston
United States Magistrate Judge